



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2018-0929]**

**RIN 1625-AA08**

**Special Local Regulations; Marine Events in the Coast Guard Sector Detroit**

**Captain of the Port Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule is intended to amend the rules that regulate vessel traffic and control navigation of portions of waterways during events that pose a hazard to public safety. This rule, if adopted, would add six new reoccurring special local regulations, remove six special local regulations, and amend the event, dates, and/or regulated areas for the 15 recurring special local regulations that will be listed in a table. The permanent special local regulations established by this proposed rule are necessary to protect spectators, participants, and vessels from the hazards associated with the varying types of marine events. This proposed rulemaking would restrict vessel traffic in the designated areas during the events unless authorized by the Captain of the Port Detroit or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by docket number USCG-2018-0929 using the Federal eRulemaking portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9564, e-mail [Tracy.M.Girard@uscg.mil](mailto:Tracy.M.Girard@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

**II. Background, Purpose, and Legal Basis**

Marine events are held on a recurring basis on the navigable waters within the Coast Guard Sector Detroit COTP Zone. In past history, the Coast Guard established special local regulations for these recurring event. These events have been submitted annually to ensure the protection of the maritime public and event participants from the hazards associated with these events. The Coast Guard has never received public comments or concerns regarding the impact to waterway traffic from these annually reoccurring events.

This proposed rule would consistently apprise the public in a timely manner through permanent publication in Title 33 of the Code of Federal Regulations. The table

in this proposed rule would list each annual recurring event requiring a special local regulated area as administered by the Coast Guard.

By establishing permanent regulations containing these events, the Coast Guard would eliminate the need to establish temporary rules for events that occur on an annual basis and thereby limit the costs associated with cumulative regulations.

This rulemaking would remove, add, and consolidate regulations to better meet the Coast Guard's intended purpose of ensuring safety during these events. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

### **III. Discussion of Proposed Rule**

The purpose of this rulemaking is to combine all of the Captain of the Port Detroit Zone's special local regulations from 33 CFR 100.911 through §100.928, into one table under §100.911. This table will ensure accuracy of times, dates, and dimensions for various marine events that are expected to be conducted within the Captain of the Port Detroit Zone throughout the year. We also propose to remove § 100.911, §100.912, §100.913, §100.914, §100.915, §100.916, §100.917, §100.918, §100.919, §100.920 §100.921, §100.927, §100.928 replacing these regulations with a table. In addition, we propose to add three rowing events, two swim events, and a water ski show to the table.

As large numbers of spectator vessels and marine traffic are expected to congregate around the event location, the regulated areas are needed to protect both spectators and participants from the safety hazards associated with the event. During the enforcement period of the regulated areas, persons and vessels would be prohibited from entering, transiting through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or the designated representative. The Coast Guard

may be assisted by other Federal, State and local agencies in the enforcement of these regulated areas. These events are listed below in the text of the regulation.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Coast Guard has previously promulgated special local regulations or safety zones, in 33 CFR part 100, for all event areas contained within this proposed regulation and has not received notice of any negative impact caused by any of the special local regulations. By establishing a permanent regulation containing all of these events, the Coast Guard will eliminate the need to establish individual temporary rules for each separate event that occurs on an annual basis, thereby limiting the costs of cumulative regulations.

##### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated areas may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves regulated areas for swim events and other marine events. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to

which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

#### **PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.



2. Revise § 100. 911 to read as follows:

§100.911 Special Local Regulations; Marine Events in the Coast Guard Sector Detroit  
Captain of the Port Zone.

(a) *General.* The following regulations apply to the marine events listed in Table 1 to §100.911, along with the requirements of §100.901. These regulations will be enforced for the duration of each event, on or about the dates indicated. Annual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical area, and details concerning of the event will be made by publication in the Federal Register via a Notice of Enforcement, published in a Local Notices to Mariners, and broadcast over VHF-FM radio. Although listed in the Code of Federal Regulations, sponsors of events listed in the table to §100.911 are still required to submit marine event applications in accordance with §100.15.

(b) *Special local regulations.* No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

(d) All geographic coordinates in Table 1 to § 100.911 are North American Datum of 1983 (NAD 83).

**Table 1 to § 100.911**

<b>COTP Zone Detroit</b>		
<b>Event</b>	<b>Sector Detroit Special Local Regulations</b>	<b>Date</b>
(a) <u>Hebda Cup Rowing Regatta</u> Rowing Event Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(b) <u>Wy-Hi Rowing Regatta</u> Rowing Event - Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(c) <u>Wyandotte Rowing Regatta</u> Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	Two days in April or May
(d) <u>Motor City Mile</u> Swimming Event Detroit, MI	All waters of the Detroit River, Belle Isle Beach between the following two lines: the first line is drawn directly across the channel from position 42°20.517'N, 082°59.159'W to 42°20.705'N, 082°59.233'W; the second line, to the north, is drawn directly across the channel from position 42°20.754'N, 082°58.681'W to 42°20.843'N, 082°58.792'W.	One day in June or July
(e) <u>Wyandotte Invites</u> Rowing Event Wyandotte, MI	All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°10.98'N, 083°09.29'W; the second line, to the north, is drawn directly across the channel from position 42°11.7'N, 083°08.9'W.	One day in July or August
(f) <u>Roar on the River</u> Powerboat Race Trenton, MI	All U.S. waters of the Trenton Channel bounded by an east/west line starting at a point on land at the northern end of Elizabeth park in Trenton, MI, located at position	Three consecutive days in July or August

	42°8.2'N; 083°10.6'W, extending east to a point near the center of the Trenton Channel at position 42°8.2'N; 083°10.4'W, extending South to the Grosse Ile Parkway Bridge located at position 42°7.7'N; 083°10.5'W, west to the shore.	
(g) <u>St. Clair River Classic</u> Power Boat Race St. Clair, MI	All U.S. waters of the St. Clair River bounded by latitude 42°50.5'N to the north and latitude 42°48.5'N to the south; the shoreline of the St. Clair River on the west; and the international boundary line on the east.	One weekend in July or August
(h) <u>Marine City Water Ski Show</u> Marine City, MI	All U.S. waters of the St. Clair River 200 feet seaward of latitude position 42°43.382'N, and to the south by 2,000 feet to 200 feet seaward of latitude position 42° 42.983'N.	One day at the end of July or beginning of August
(i) <u>Detroit Hydrofest</u> Power Boat Race Detroit, MI	All U.S. waters of the Detroit River in Scott Middle Ground, north of Belle Isle, Michigan, starting at positions 42°20.506'N, 083°00.016'W, on the Douglas MacArthur Bridge; extending east to the Belle Isle Crib Light at 42°21.205'N, 082°57.996'W.	Three consecutive days in August or September
(j) <u>Bay City Grand Prix</u> Powerboat Races Bay City, MI	All waters of the Saginaw River bounded on the north by the Liberty Bridge, located at 43°36.3' N, 083°53.4' W, and bounded on the south by the Veterans Memorial Bridge, located at 43°35.8' N, 083°53.6' W.	One weekend at the end of June or beginning of July
(k) <u>Tug Across the River</u> Detroit, MI	All U.S. waters of the Detroit River, Detroit, Michigan, bounded on the south by the International boundary, on the west by 083°03' W, on the east by 083°02' W, and on the north by the U.S. shoreline. This position is located on the Detroit River in front of Hart Plaza, Detroit, MI.	One day in June or July
(l) <u>Michigan Championships</u> Swimming Event Detroit, MI	All waters of the Detroit River and Belle Isle Beach between the following two lines: the first line is drawn directly across the channel from position 42°20.517'N, 082°59.159'W to 42°20.705'N, 082°59.233'W; the second line, to the north, is drawn directly across the channel from position 42°20.754'N, 082°58.681'W to 42° 20.997'N, 082° 58.846'W.	One day in August or September
(m) <u>Bay City Tall Ships</u> Parade of Sail	All waters throughout the federal navigational channel of Saginaw Bay from Light Buoy 11 at position 43°43.90'N, 083°46.87'W and Light 12 at position	Tri-annually in July

Bay City, MI	43°43.93'N, 083°46.95'W to the Saginaw River, and on all waters of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35.77'N, 083°53.60'W.	
<b>Event</b>	<b>Marine Safety Unit Toledo Special Local Regulations</b>	<b>Date</b>
(n) <u>Frogtown Race Regatta</u> Toledo, OH	All waters of the Maumee River, Toledo, OH, from the Martin Luther King Jr. Memorial Bridge at River Mile 4.30 to the Michael DiSalle Bridge at River Mile 6.73.	One day in September
(o) <u>Dragon Boat Learning Festival</u> Toledo, OH	All waters of the Maumee River in Toledo, OH between the Martin Luther King Jr. Memorial Bridge at river mile 4.30 and a line extending from a point at position 41°38.78'N, 083°31.84'W at International Park straight across the river to shore near the mouth of Swan Creek at position 41°38.79'N, 083°32.03'W.	One day in June or July

§§100.912 through 100.921, 100.927, and 100.928 [Removed]

3. Remove §§100.912, 100.913, 100.914, 100.915, 100.916, 100.917, 100.918, 100.919, 100.920, 100.921, 100.927, and 100.928.

DATED: October 11, 2018

Jeffrey W. Novak  
Captain, U. S. Coast Guard  
Captain of the Port Detroit

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